

## PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM Flagstaff Fire Department #010 Meeting Minutes – February 22, 2013

Flagstaff City Hall Council Conference Room 211 W. Aspen

- I. The meeting was called to order at 9:00 a.m. Those in attendance were board members: Mayor Nabours, Jim Harvel, Dave VanBoxtaele, Scott Strohmeyer, & Secretary Vivian Fennema. The meeting was also attended by the local board's attorneys Michael Anthony and (via telephone) Hanna Auckland. Representing the City was Assistant City Attorney Anja Wendel. The meeting was recorded by a court reporter from Performance Reporters. Airport personnel present were Emily Ross, Mark Piper, & Timothy Skinner.
- I. Motion to approve the minutes of February 4, 2013 by Dave VanBoxtaele, and seconded by Jim Harvel; the motion carried.
- II. Due to a conflict of interest Mayor Nabours recused himself from the meeting at 9:06am.
- III. Scott Strohmeyer would like to discuss an item mentioned at the last meeting. Attorney Wendel stated the City would not look at any effective date prior to 6/11/12; the date of the letter from the Attorney General's office which stated that these types of employees are eligible to participate in the PSPRS. Mr. Strohmeyer feels that a possible compromise with the City on an effective date would be something the board might want to consider. Ms. Wendel stated that legislation would have to be jointly proposed that would clarify this issue; that you cannot compromise the law.

Mr. VanBoxtaele also mentioned that he use to work for the Police Department, starting back in 1975. Police and Fire personnel were required to be present at the airport any time a commercial flight was landing/taking off. This happened until the City purchased a Pumper truck in 1989 and stationed it permanently at the airport and had crews who manned it during flight times.

Mr. Anthony agrees that the board does not have the legal authority to compromise based on fiscal concerns; that the board has to make its decision based on eligibility requirements.

For the record, MS. Wendel is stating the City's position is that based on laches, the issue of retroactive liability would have to be litigated in Court.

IV. Emily Ross was sworn in by court reporter. Emily verified her hire date of 7/12/10 and her FAA certification was obtained 4/28/11. Emily stated that she has been a FT 40/hr/wk employee, expected to respond to airport crashed, etc, EXCEPT for the first 2 months of her employment when she was assigned to light duty due to ankle

surgery from a previous job. Motion was made that based on the evidence heard today, Emily Ross received her FAA certification 4/28/11; therefore, the Board recommends an effective date in the PSPRS for Emily as 4/28/11. Motion made by Dave VanBoxtaele and seconded by Scott Strohmeyer; the motion carries.

- V. Mark Piper was sworn in by court reporter. Mr. Piper verified his hire date of 2/2/04 and his FAA certification was obtained 5/6/04. Mark stated that he has been a FT 40/hr/wk employee since February 04, was regularly assigned to hazardous duty, and his certification never lapsed. Motion was made that based on the evidence heard today, Mark Piper received his FAA certification 5/6/04; therefore, the Board recommends an effective date in the PSPRS for Mark as 5/6/04. Motion made by Scott Strohmeyer and seconded by Dave VanBoxtaele; the motion carries.
- VI. Timothy Skinner was sworn in by court reporter. The board reviewed and confirmed Mr. O'Connor's hire date of 11/29/10, his FAA certification date of 4/28/11, and that he has been a fulltime 40 hour employee regularly assigned to hazardous duty since his hire date. Motion was made that Emily Ross received her FAA certification on 4/28/11; therefore, the Board recommends an effective date in the PSPRS for Timothy as 4/28/11. Motion made by Dave VanBoxtaele and seconded by Scott Strohmeyer; the motion carries.
- VII. At this time we called Mr. Dave Lipinski. (Court Reporter swears him in) Dave no longer works for the City of Flagstaff and lives in Bullhead City working for Target. He stated his last day was 1/21/13. He does still want his application for membership in PSPRS to be considered. Mr. Lipinski stated he worked for the City originally in 2000, but left after 6-7 months. He stated he was pretty sure he withdrew his funds from the ASRS system at that time. He was again employed by the City starting 11/5/07 as a Service Worker I. He stated he was already certified when he started, he just needed to get a refresher course on a "Live Fire Burn". While reviewing Dave's application for membership, Mr. VanBoxtaele noticed that Mr. Lipinski also worked for the City of Bullhead City as a Police Officer from Jan 2002-July 2002. He would have been a member of PSPRS during this time. Once again, Mr. Lipinski states he is almost 110% sure he withdrew those funds from PSPRS when he left his employment with the City of Bullhead. During discussion on Mr. Lipinski's service time and possibly still having money on deposit with ASRS and PSPRS, Mr. Lipinski wavered from wanting to be considered for membership starting 11/05/07, then also wanted to double check on the withdrawal of funds from ASRS back in 2000.

Scott Strohmeyer made the motion that based on the insufficient evidence regarding dates of employment for Dave Lipinski; his application is denied at this time. Motion was seconded by Dave VanBoxtaele. Motion carries.

Mr. Lipinski was asked to provide Board Secretary, Vivian, with any paperwork he can obtain that will verify 1) the dates of his employment with the City of Flagstaff back in 2000 (this was not listed on attachment provided by HR)

- 2) Whether he withdrew funds from ASRS after leaving in 2000 and
- 3) Whether he withdrew funds from the PSPRS system when he left his position as a police officer for Bullhead in 2002.

Mr. Lipinski stated he would provide the proof probably early next week.

## VIII. Recess into Executive Session

Motion was made Dave VanBoxtaele, seconded by Scot Strohmeyer, motion carried.

- A. Discussion or Consultation for legal advice with the attorney or attorneys of the public body.
- IX. Adjournment from Executive Session/Reconvene to Open Session
  - A. Item #3 on agenda is consideration and discussion of response letter from Carson Messinger PLLC to PSPRS regarding the City Attorney's letter dated February 6, 2013, addressed to Jared Smout, Deputy Administrator for the PSPRS.
  - B. Motion was made by Dave VanBoxtaele that Local Board Counsel should draft a letter of response to look out and protect the interest of the Board. Seconded by Scott Strohmeyer. Motion Carried.
  - C. Assistant City Attorney Anja Wendel added that the Special Counsel represents the Board, and not the individual applicants for membership.
- X. The meeting adjourned at 11:01 am.

**Vivian Tennema**Signature of Board Secretary